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Subject: comments on the draft bulletin on peer review

Our comments are attached as a MS-Word document, and pasted below. All required information is in the letter. Thanks.

Bill Snape
Defenders of Wildlife



ombpeerletter.doc
(31 KB)

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May 27, 2004

Dr. Margo Schwab
Office of Information and Regulatory Affairs
Office of Management and Budget (OMB)
725 17th Street, N.W.
New Executive Office Building, Room 10201
Washington, D.C. 20503

Re: Comments on the Revised Information Quality Bulletin for Peer Review

Dear Dr. Schwab:

On behalf of our approximately one-million members and supporters, Defenders of Wildlife ("Defenders") appreciates the opportunity to comment upon the Revised Information Quality Bulletin for Peer Review (dated April 15, 2004). We appreciate OMB responding to many of the earlier suggestions for improving the Draft Information Quality Bulletin for Peer Review (Bulletin). However, we still think the Bulletin has significant room for improvement in several key areas.

In general, we think the revised Bulletin should be accompanied by appropriate funding because the contents of the current Bulletin will incur substantial costs for many agencies that are already under-funded. Further, the current draft seems to financially penalize agencies for implementing assessments and rules that would have economic consequences, by forcing those agencies to use over-committed funding for compliance with the Bulletin. As the Ornithological Council has previously stated to this agency:

Despite the title, the text of the proposed Bulletin makes it clear that compliance is mandatory. For instance, the text states that "The Bulletin also recognizes that waivers of these requirements may be required in some circumstances, such as when court-imposed deadlines or other exigencies make full compliance with this Bulletin impractical." Waivers are to be granted only by the Administrator of the Office of Information and Regulatory Affairs. Agencies therefore must comply absent a waiver.

Agency budgets are already stretched thin. To comply with this Guidance (as well as the data quality guidelines), they must necessarily devote resources such as staff time, travel expenses, printing expenses, and the like. Yet no additional resources have been appropriated for compliance. This is particularly true with regard to the formation of federal advisory committees (discussed more fully below). Agencies may be required to divert funds from programs that fulfill agency missions (such as scientific research) in order to comply. Lack of adequate funding alone may make it impracticable to comply fully.

The Office of Management and Budget does not make a compelling case that this expense is warranted. The introductory matter discusses a report from the Inspector General of the Environmental Protection Agency, but offers no evidence that the shortcomings in

peer review practice are common. The EPA response to the Inspector General's report acknowledged that the peer-review policies at the agency were in flux over the decade during which the policies in question were produced and implemented. The EPA asserted that since newer policies were implemented, the peer-review practices at the agency had improved, and noted that the Inspector General hadn't assessed whether the agency's peer-review practices had improved over time.

The Office of Management and Budget might want to consider the benefit that would result from imposition of this Guidance. If there is no widespread problem with peer review practices among the federal agencies that would be affected by this policy, then it would seem that there might be little benefit to be gained. If the problems are isolated to one or more specific agencies, the imposition of the costs of this guidance to all agencies might not be warranted.

The Office of Management and Budget might want to consider undertaking an analysis of the cost of compliance with this Guidance (as well as compliance with the data quality guidelines) for the purposes of (a) determining when an agency's financial status makes compliance impracticable and (b) formulating Presidential budget requests to Congress that include additional funds for compliance with these directives.

We note that the Guidance requires an annual report. We suggest that the Guidance require that agencies report on the cost of compliance with the Guidance, including compliance with the reporting requirement.

Further, the revised Bulletin references several documents pertaining to conflicts of interest, which are highly relevant to these guidelines, and whose relevance should be made abundantly clear in any final Bulletin. Given some of the current high-profile ethics problems dogging certain Administration officials and their actions, we strongly suggest that the following documents be provided as attachments or links to the revised Bulletin:

- Relevant federal agency ethics requirements
- Applicable standards issued by the Office of Government Ethics
- 18 U.S.C. § 208; 5 C.F.R. Part 2635
- National Academy of Sciences conflict of interest standards

In addition, Section III(1)(i) includes in its description of highly influential scientific assessments those that “could have a clear and substantial impact on... private sector decisions with a potential effect of more than \$500 million in any year.” We think this guideline needs two clarifying elements. First, the \$500 million figure needs to account for inflation. Second, we hope and assume that this section includes any and all goods and services for which the economic value is estimable? This is of particular relevance to the land-managing programs and agencies. For example, if a scientific

assessment is used to support the conservation of lands, it may have a monetary impact on private sectors. However, conserved lands provide economically valuable (but non-marketed or potentially marketable) ecological services such as water filtration, air purification, carbon sequestration, soil formation, and moderation of local weather. They also harbor species that provide agricultural pollination services, pest control, nutrient cycling services, recreational opportunities, and aesthetic amenities. Conserved lands also serve as “banks” of natural capital from which economically valuable goods such as timber, fish, and wildlife may flow on a sustainable basis; such lands typically also have substantial option and existence values. The actions of some agencies and private sectors may eliminate or reduce these economic values, which would otherwise be realized by public and other private sectors. Therefore, we suggest modifying the Bulletin to account for the economic value of non-marketed (or potentially marketable), as well as marketable resource-based, goods and services when ascertaining the impact of a scientific assessment.

Similarly, we suggest elaborating Section VIII, parts 6 and 7. These sections largely exempt the science of economics from peer review. We view this as a highly problematic exemption, especially considering the fact that some form of economic analysis is required to determine if a scientific assessment is highly influential. If, for instance, an assessment includes interpretive economic language that may have a substantial impact on policy decisions, then we think such analysis should not be exempt from peer review, particularly if the result is a reduction or loss of a public environmental value. We suggest that highly influential assessments based on economic "science" be subject to the same peer review process as other highly influential scientific assessments.

Finally, Section IX identifies the OIRA, in consultation with the OSTP, as the agency responsible for overseeing implementation of the revised Bulletin. We think the nature of scientific peer review is largely beyond the purview of the OIRA. We suggest that a scientifically authoritative entity with an established history of peer review administration be responsible for oversight.

We appreciate the opportunity to comment on the revised Bulletin.

Sincerely,

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